

Section 6: Courts

Washington is one of 14 states to use determinate sentencing for felony convictions.

INTRODUCTION

When law is broken in Washington, the alleged offender may be prosecuted in a state, federal, tribal, or military court. Jurisdiction over the defendant depends on the crime charged, the discretion of the prosecutor, and the defendant's status (i.e., age, citizenship, military or tribal status, criminal history). This report briefly examines all four court systems and identifies each court's source of authority, as well as funding and the key components of each court's infrastructure.

The State Court System

I. Introduction

Washington's state court system has four levels: courts of limited jurisdiction, superior courts (courts of general jurisdiction), Courts of Appeals, and the state Supreme Court. These courts hear both civil and criminal matters. Civil cases are disputes between private citizens, corporations, governmental bodies, or other organizations. Criminal cases, which are the subject of this report, are brought by the government against individuals or corporations accused of committing a crime. The prosecutor has the authority to charge the accused person (defendant) on behalf of the government (plaintiff). The prosecution has the burden of proving to the judge or jury that the defendant is guilty beyond a reasonable doubt.

The most serious crimes are felonies, punishable by more than a year's confinement in state prison or for sentences of less than a year, in county jail. Felonies include crimes such as arson, assault, larceny, most drug offenses, robbery, burglary, murder and rape. Lesser crimes (misdemeanors and gross misdemeanors) are punishable by fines, and/or supervision or confinement in city or county jail for less than one year. An example of a misdemeanor is theft of property under \$250. Driving under the influence of alcohol is an example of a gross misdemeanor.

Defendants found guilty of breaking a law receive a sentence from a judge. Juries can determine guilt or innocence, but not punishment, except in death penalty cases. Washington is one of fourteen states to use "determinate" felony sentencing, which requires judges to impose penalties based on a uniform set of guidelines approved by the Legislature (Washington State Institute for Public Policy 2003a 1). Most children under 18 accused of breaking the law appear in a juvenile court (separate from adult court), and receive sanctions under a different set of determinate guidelines. When they are accused of committing designated "serious crimes," juveniles are (or may be) prosecuted as adults (a process known as "declination" by the juvenile court).

II. Legal Authority

Article IV of the Washington State Constitution authorizes the state's judiciary. It vests judicial power in a supreme court, superior courts, justices of the peace and "such inferior courts as the Legislature may provide." These sections are repeated and embellished in state law

Most children under age 18 appear in juvenile court, but may be prosecuted as an adult if accused of offenses designated as “serious crimes”.

The crime charged, the age of the defendant, and the punishment that can be imposed determine which level of state courts will hear a case. The accompanying diagram depicts Washington's court structure, and how state courts interrelate. "CSP" refers to terminology developed by the National Center for State Courts' Court Statistics Project, which is further explained in *State Court Organization 1998* (Bureau of Justice Statistics 2000). DWI/DUI stands for "driving while intoxicated/driving under the influence."²⁸

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graph BT
    subgraph Limited_Jurisdiction [Courts of limited jurisdiction]
        direction TB
        MC[Municipal Court  
106 judges -- CSP case types:  
• Domestic Violence.  
• Misdemeanor, DWI/DUI.  
• Moving traffic, parking, miscellaneous traffic, and ordinance violation.  
  
Jury trials except in traffic and parking]
        DC[District Court (48 courts in 65 locations for 39 counties)  
113 judges -- CSP case types:  
• Tort, contract ($0/$50,000), domestic violence. Exclusive small claims jurisdiction ($2,500).  
• Misdemeanor, DWI/DUI  
• Moving traffic, parking, miscellaneous (not-traffic) violations.  
• Preliminary hearings.  
  
Jury trials except in traffic and parking]
    end

    MC --> SC
    DC --> SC

    subgraph General_Jurisdiction [Court of general jurisdiction]
        SC[Superior Court (31 districts in 39 counties)  
174 judges -- CSP case types:  
• Tort, contract ($0/no maximum). Exclusive real property rights ($0/no maximum), domestic relations, estate, mental health, civil appeals, miscellaneous civil jurisdiction.  
• Exclusive felony, criminal appeals jurisdiction.  
• Exclusive juvenile jurisdiction.]
    end

    SC --> COA

    subgraph Appellate [Intermediate appellate court]
        COA[Court of Appeals (3 court/divisions)  
22 judges sit in panels -- CSP case types:  
• Mandatory jurisdiction in civil, non-capital criminal, administrative agency, juvenile, original proceedings cases.  
• Discretionary jurisdiction in an administrative agency, interlocutory decision cases.]
    end

    COA --> SOT

    subgraph Last_Resort [Court of Last Resort]
        SOT[Supreme Court  
9 justices sit en banc and in panels -- CSP case types:  
• Mandatory jurisdiction in civil, capital criminal, criminal, administrative agency, juvenile, certified questions from federal court cases.  
• Discretionary jurisdiction in civil, non-capital criminal, administrative agency, juvenile, disciplinary, original preceding, interlocutory decision cases.]
    end
  
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Supreme Court

9 justices sit en banc and in panels -- CSP case types:

- ◆ Mandatory jurisdiction in civil, capital criminal, criminal, administrative agency, juvenile, certified questions from federal court cases.
- ◆ Discretionary jurisdiction in civil, non-capital criminal, administrative agency, juvenile, disciplinary, original preceding, interlocutory decision cases.

Court of Appeals (3 court/divisions)

22 judges sit in panels -- CSP case types:

- ◆ Mandatory jurisdiction in civil, non-capital criminal, administrative agency, juvenile, original proceedings cases.
- ◆ Discretionary jurisdiction in an administrative agency, interlocutory decision cases.

Superior Court (31 districts in 39 counties)

174 judges -- CSP case types:

- ◆ Tort, contract (\$0/no maximum). Exclusive real property rights (\$0/no maximum), domestic relations, estate, mental health, civil appeals, miscellaneous civil jurisdiction.
- ◆ Exclusive felony, criminal appeals jurisdiction.
- ◆ Exclusive juvenile jurisdiction.

Municipal Court

106 judges -- CSP case types

- ◆ Domestic Violence.
- ◆ Misdemeanor, DWI/DUI.
- ◆ Moving traffic, parking, miscellaneous traffic, and ordinance violation.

Jury trials except in traffic and parking

District Court (48 courts in 65 locations for 39 counties)

113 judges -- CSP case types:

- ◆ Tort, contract (\$0/\$50,000), domestic violence. Exclusive small claims jurisdiction (\$2,500).
- ◆ Misdemeanor, DWI/DUI
- ◆ Moving traffic, parking, miscellaneous (not-traffic) violations.
- ◆ Preliminary hearings.

Jury trials except in traffic and parking

²⁸ For a more comprehensive explanation of Washington State's court system than we are able to provide here, see *A Citizen's Guide to the Courts* (Washington State Administrative Office of the Courts, 2001).

More than two million cases are filed each year in Washington's courts of limited jurisdiction.

A. Courts of Limited Jurisdiction

District and municipal courts comprise the courts of limited jurisdiction, the first level of courts in Washington. Cities and towns create municipal courts; district courts are a county responsibility. These courts hear traffic and misdemeanor cases, as well as most civil claims up to \$50,000, including driving under the influence of drugs or alcohol, theft, and fourth degree assault. More than two million cases (Washington Courts) are filed each year in Washington's courts of limited jurisdiction. Judges in these courts are specialists who are experts in a particular body of law. District court cases are most often decided by judges but sometimes by a six-person jury.

Mental Health Courts

These special calendars within district and superior courts handle cases involving mentally ill defendants. The intent is to divert these offenders from jail to treatment. Defendants must be diagnosed with serious mental illnesses such as psychotic disorders, bipolar disorders, or major depression, not simply situational stressors such as adjustment disorders, mild depression or anxiety. Mental health courts accept defendants whose mental health poses a significant problem and is a possible contributing factor to the alleged crime.

Defendants' participation in mental health courts most often is voluntary. If they choose not to participate in mental health court, their cases go on the regular court calendar. Jail psychiatric staff who screen for mental health problems often refer defendants, as do police, attorneys, family members and probation officers.

Criminal mental health courts are located in King, Clark and Clallam Counties, Seattle Municipal court, and Spokane District and Municipal Courts. Snohomish County is currently exploring the possibility of setting up such a court.

Domestic Violence Courts

Domestic violence cases are among the most complex and difficult to try, frequently requiring additional court time because of factors such as victim concerns, firearm possession, batterer intervention programs, and effects of conviction on immigration status. More people are required to be present at domestic violence hearings, including victims, victim advocates, additional court security personnel, (due to heightened possibility of violence), and probation officers, who provide recommendations on sentencing, services and contact with the victim. As a result of this complexity, approximately 200 courts in the United States have reorganized to recognize the special needs of domestic violence cases. Benefits of this specialization include a single judge to provide leadership, sentencing consistency and defendant accountability, batterer and drug treatment, scheduled periodic review, and more knowledgeable prosecutors and judges (Kleinhesselink and Mosher 2003 3-4).

Juvenile delinquents are those youth who have committed an offense that would be illegal regardless of the child's age.

Civil protection orders may be heard in municipal, district or superior court. In some cases, municipal and district courts transfer jurisdiction to superior court. These include cases where superior court is already hearing the matter, where children are involved, and/or where the petitioner is requesting exclusion of the respondent from a common dwelling.

In Washington, King County sponsors a Municipal Domestic Violence Pretrial Court in Seattle, which provides a special pretrial conference calendar for misdemeanor domestic violence cases. In Clark County, where 45 percent of all criminal trials in 2002 were assigned to the domestic violence court, officials have created a domestic violence court system. Superior court judges confer their jurisdiction on judges in district court, so that misdemeanor criminal domestic violence cases and orders for civil protection are heard in the same court (Kleinhesselink and Mosher 2003 3).

B. Superior Courts

The second level of trial court jurisdiction is the superior court. This court has general jurisdiction, which means that there are no limits to the types of civil or criminal cases that can be heard, including appeals from courts of limited jurisdiction. Criminal defendants in superior court have the right to request a jury trial. Most felony criminal cases require juries of 12 citizens. Voters elect superior court judges to four-year terms, in 31 districts around the state.

Juvenile Courts

Juvenile courts were established to deal with abused and neglected youth (dependents) and youth who break the law (offenders). Dependents need court decisions to provide state-sponsored foster care or other living arrangements when they have an unfit or incapacitated parent. Juvenile delinquents are those youths who have committed an offense that would be illegal regardless of the child's age. A child who has committed an offense that would not be illegal if an adult committed it is termed a "status offender." Juvenile courts have jurisdiction if the offender is under age 18; however, jurisdiction of a youth may be declined by the juvenile court (that is, sent to an adult court) if the crime is a serious one.

The state Juvenile Justice Act of 1977 and its revisions govern juvenile offenders. When a youth under age 18 commits a crime, the seriousness of the offense and his or her previous criminal history determine which court will hear the case. As with adults, judges use a uniform set of guidelines to determine sentencing.²⁹ Washington's Violence Reduction Act of 1994 requires automatic filing in adult court if the juvenile is sixteen or seventeen years old and the alleged offense is a serious violent

²⁹ Washington is the only state to have determinate juvenile sentencing (Washington State Institute for Public Policy 2003a 3).

On an average day in 2001, 1,144 juvenile offenders resided in Juvenile Rehabilitation Administration facilities.

offense, the offender has a criminal history, or the offender committed robbery or rape of a child in the first degree, a drive-by shooting, burglary, or any violent offense with a firearm (RCW 9.94A.030).

State and county government are responsible for juvenile justice. The most serious juvenile offenders are sent to state institutions, managed by the Juvenile Rehabilitation Administration (JRA). During 2001, 1,144 offenders resided in JRA facilities on an average day. After incarceration, these offenders are supervised in the community, another state-funded service. JRA reported an average of 1,065 juvenile offenders on their parole caseloads in 2001 (Washington State Institute for Public Policy 2002 4).

Sentencing guidelines place less serious juvenile offenders under county jurisdiction. Approximately 900 juveniles occupied county detention centers, and 10,539 juveniles were under county community supervision on a typical day in 2001 (Washington State Institute for Public Policy 2002 4).

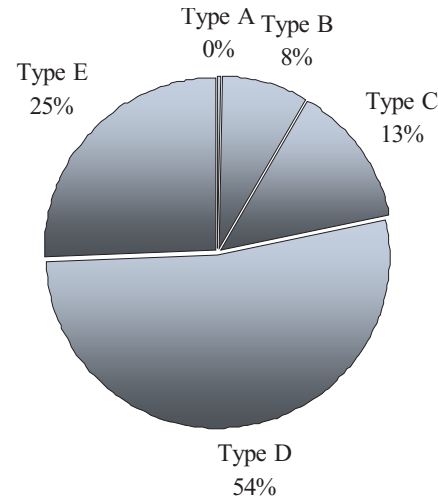
If a youth offender has never been in trouble before, the Juvenile Prosecutor diverts the case to a Community Accountability Board, made up of residents of the offender's community. Punishment may be restitution, counseling, informational or educational sessions, a fine up to \$100 and/or community service. If the juvenile complies with the diversion, no record is kept. Non-compliance, however, leads to a charge in juvenile court, where juvenile prosecutors have discretion to review and prosecute these matters.

The table and chart below show the number of Washington juveniles arrested or cited and referred to prosecutors, and the types of offenses involved.

TABLE 6-1 Juvenile Offense Referrals by Number and Percentage 1998 - 2001						
	JUVIS System 1/ (Excludes King County)		King County 2/ 2001		Statewide Totals	
Offense	Number	Percent	Number	Percent	Number	Percent
A+ A & A-	695	1%	210	2%	905	2%
B+ & B	4,057	8%	955	10%	5,012	8%
C+ & C	6,484	13%	1,326	14%	7,810	13%
D+ & D	26,560	53%	4,878	52%	31,438	52%
E	12,767	25%	1,969	21%	14,736	25%
Total Referrals	50,563	100%	9,338	100%	59,901	100%

Source: Governor's Juvenile Justice Advisory Committee, Office of Juvenile Justice 2002 167.

FIGURE 6-2
2001 Juvenile Offense Referrals by Type of Offense



Type A= Murder, kidnap, rape, etc.

Type B = Assault 2, burglary, vehicular homicide, etc.

Type C = Assault 3, malicious harassment, marijuana sale, etc.

Type D = Weapon possession, criminal trespass, display weapon, DUI, vehicular prowling, etc.

Type E = Alcohol offense, disorderly conduct, prostitution, reckless driving etc.

Source: Governor's Juvenile Justice Advisory Committee 2002 168.

Drug Courts

Drug courts, administered through specialized superior courts and tribal courts, offer court-supervised, comprehensive drug treatment programs to eligible non-violent drug and property felony offenders who agree to stipulate to the facts, meet job training or academic goals, and report regularly to a judge. The Drug Court Program serves as an alternative to jail and/or prison.

The Washington State Institute for Public Policy (WSIPP) research found that there is 13.3 percent reduction in recidivism rates among drug court participants (2003b 4). Evaluating six well-established state adult drug courts in King, Pierce, Spokane, Skagit, Thurston, and Kitsap Counties, WSIPP found that five of the six drug courts reduced felony recidivism by 13 percent (2003b 8). The King County result, a 4 percent decrease in offending, may have dropped below this figure because of early terminations from drug court treatment programs during 1998-1999 (Washington State Institute for Public Policy 2003b 9).

WSIPP also conducted a cost-benefit analysis of the six programs. Researchers found that drug courts are expensive, because of increased uses of court resources and drug treatment and monitoring: \$4,427 per defendant, compared to \$1,717 per defendant in regular court. However, when costs associated with reduced recidivism are factored in -- some \$3,759 in future criminal justice costs that would have been shouldered by taxpayers, plus \$3,020 in costs that would have been borne by

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For every \$1.00 spend on drug courts, there is a cost benefit of \$1.74 for future costs avoided for criminal justice expense and crime victims' losses.

future crime victims -- analysis shows a benefit of \$1.74, for each \$1.00 of cost (Washington State Institute for Public Policy 2003b).

TABLE 6-2 Summary of the Cost-Benefit Analysis Of Five Adult Drug Courts in the Evaluation	
Benefits of Reduced Recidivism	
Criminal Justice Costs Avoided per Drug Court Participant	\$3,759
Crime Victim Costs Avoided per Drug Court Participant	<u>\$3,020</u>
Total Crime-Related Costs Avoided per Drug Court Participant	\$6,779
Costs of the Drug Court	
Total added cost of the Drug Court per participant	\$3,891
Net Gain (loss) per Drug Court Participant	\$2,888
Benefit-to-Cost Ratio	\$1.74

Source: Washington State Institute for Public Policy 2003b 11

Funding for drug courts comes from a mix of federal, state, local, and private sources. Federal grants through the U.S. Department of Justice, including Byrne Memorial Grant funds, as well as state money from the Public Safety Enforcement Account (PSEA) and Violence Reduction Drug Enforcement (VRDE) account have been sources of financial support for Washington's drug courts.

The table below lists drug court programs operating or planned in Washington.

TABLE 6-3 Drug Courts In Washington State (Current & Planned)				
County	Adult	Juvenile	Family	Tribal Courts
Benton-Franklin	Kennewick	Kennewick		
Clallam	Port Angeles	Port Angeles		Makah Tribe
Clark	Vancouver			
Cowlitz	Kelso	Kelso		
Island		Coupeville		
King	Seattle	Seattle	Planned (Seattle)	
Kitsap	Port Orchard	Port Orchard	Planned (Port Orchard)	Suquamish Tribe (Planned)
Mason	Planned (Shelton)			
Pacific				Shoalwater Bay Tribe (Planned)
Pend Oreille			Planned (Newport)	
Pierce	Tacoma	Tacoma	Tacoma	
Skagit	Mt. Vernon			
Snohomish	Everett	Planned (Everett)	Planned (Everett)	
Spokane	Spokane	Spokane		
Stevens				Spokane Tribe
Thurston	Olympia	Olympia		
Whatcom	Bellingham	Bellingham	Bellingham	Lummi Indian Nation Nooksack Tribe (Planned)
Yakima	Yakima			Yakama Nation (Adult operating, juvenile planned)

Source: Office of Justice Programs Drug Court Clearinghouse 2003
Tribal locations from Governor's Office of Indian Affairs 2003

C. Court of Appeals

The Court of Appeals is the third state court level. Criminal case defendants dissatisfied with lower court decisions may appeal to this court. Court of Appeals judges also handle Personal Restraint Petitions, which are similar to writs of habeas corpus in enabling a petitioner to question the legality of a specific person's imprisonment.

The Court of Appeals has three divisions in Washington: King County and north, Pierce County and south, and the eastern side of the state. Judges, who are elected to six-year terms, typically review lower court transcripts and hear oral arguments before making their decisions. Litigants may not present witnesses or evidence not relied upon in earlier trials.

D. Supreme Court

The Supreme Court has direct review over a trial court decision involving a person acting under "color of law" (i.e., with official authority), and situations in which a trial court has ruled a statute or ordinance unconstitutional; conflicting statutes or rules of law are involved; or the issue is of broad public interest and requires a prompt and ultimate determination. The Supreme Court must also review all cases where the death penalty is imposed. Otherwise, review of lower court decisions is left to the discretion of the Court; that is, the Supreme Court can choose whether to review the case, or let the decision of the lower court stand. The Supreme Court also supervises attorney discipline and standards of conduct statewide.

Voters across the state elect nine justices to six-year terms. Opinions written by this Court become state precedent, and dictate the way lower courts interpret future cases.

IV. Funding for Courts

Local governments provide 85 percent of the funding for the Washington's state court system. State government's 15 percent share falls well below the national average; Washington, in fact, ranks last among states in state support for courts. State accounts fund one-half of Superior Court judges' salaries, the Court of Appeals, the Supreme Court and its administrative departments (including the state law library). City and county governments pay for municipal courts, and the operating expenses of District and Superior Courts – the bulk of the system. In 1999, county budgets paid 66 percent of court expenses, and city governments covered another 19.3 percent (Washington State Administrative Office of the Courts n.d. b).³⁰ The state pays Department of Corrections probation costs for superior court.

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³⁰ For a description of recent efforts by the Court Funding Task Force, formed by the Board for Judicial Administration at the request of the Superior Court Judges Association and the District and Municipal Court Judges' Association, see Washington State Administrative Office of the Courts n.d. a.

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Counties paid the cost for probation resulting from District Court Cases. Another expense that is increasing for counties is the cost of providing courtroom security.

The table below compares Washington's current court funding structure with averages nationwide).

TABLE 6-4 Proportion of Judicial and Legal Service Direct Expenditures Borne by State and Local Governments in Washington				
	State	Local	Local Entity	
			Counties	Municipalities
Washington State	14.7%	85.3%	66.0%	19.3%
National Average	45.0	55.0	41.7	13.3

Source: Washington State Administrative Office of the Courts n.d. b

V. Key Administrative Bodies and Staff

Several important administrative entities provide support to Washington's judges and courts.

- A. Administrative Office of the Courts (AOC): Established by the Legislature, AOC operates under the direction of the Chief Justice of the Supreme Court. AOC provides information, coordination, education, ethics opinions, and consultations and staff support to judges across the state. AOC also provides technical assistance in the editing, publishing, and dissemination of bench books. Bench books are usually authored by judges and offer expertise, law updates, forms, and scripts for the different areas of law.
- B. County Clerks: These independently elected local officials serve as financial and administrative officers for Superior Courts. They preserve and organize all court files, maintain the security and integrity of court records, store and protect exhibits, and train courtroom clerks.
- C. Board for Judicial Administration (BJA): BJA is made up of judges who develop policy and provide leadership for the courts of Washington.
- D. Judges' Associations: Judicial associations focus on issues of court and judiciary governance, procedure and policy. In Washington, the associations include the Superior Court Judges' Association and the District and Municipal Court Judges' Association.

VI. Commissions, Boards, Committees, and Councils Under the Auspices of the State Courts: In order to anticipate and correct problems, courts have established study commissions. The following are key:

- The Washington State Minority and Justice Commission studies racial and ethnic bias in state courts and promotes measures to eliminate it.
- The Washington State Gender and Justice Commission promotes gender equality in law.
- The Time-for-Trial Task Force, initiated by the Washington Supreme Court in March, 2002, reviewed rules related to timely resolution in criminal cases. The Task Force recently submitted a report to the State Supreme Court recommending broad changes to court rules (Time-For-Trial Task Force n.d.).
- The Ethics Advisory Committee advises judges about the rules of judicial conduct, and submits recommended changes in the state Code of Judicial Conduct to the Supreme Court.
- The Court Funding Task Force develops and implements measures to create long-term stability for the funding of trial courts.
- The Board for Court Education works to educate judges across the state about emerging issues in order to improve judicial decision-making.

VII. Entities in Which the Courts Participate

Judges and court staff participate in a number of entities significant to the criminal justice system as a whole.

Sentencing Guidelines Commission: The Sentencing Guidelines Commission was created to ensure that offenders receive consistent sentences across the state, if they commit similar crimes and have similar criminal histories. Judges participate as members of the Commission to set sentencing rules for both juvenile and adult sentences. They also collect and compile accurate sentencing information on felony offenders, and produce a computerized database that analyzes effects of changes in sentencing laws on prison populations.

Edward Byrne Memorial State and Local Law Enforcement Assistance Discretionary Grant Program: Federal Byrne grant funds are used to reduce violent and drug-related crime, improve operations, and build coordination and cooperation within local and state criminal justice systems. These federal funds are granted to each state and U. S. territory. A state-level committee composed of criminal justice professionals from across the Washington makes grant allocation decisions to local jurisdictions.

Washington Governor’s Juvenile Justice Advisory Committee (GJJAC): GJJAC is Washington’s “State Advisory Group.” Each state is required by the federal Juvenile Justice and Delinquency Prevention Act of 1974 to have such a body. GJJAC receives federal funding, which it awards to local demonstration projects, technical assistance efforts, and for research to find ways to reduce juvenile delinquency, and to improve the juvenile justice system. Members include juvenile justice professionals and knowledgeable private citizens, who

Department of Corrections staff provide pre-sentencing investigation reports for sex and mentally ill offenders.

represent all sectors of the juvenile justice system and all geographical areas of the state. GJJAC also receives some state funding.

Legislative Work Groups and Committees: Judges participate on Legislative multi-disciplinary groups and committees that draft and implement legislation. For example, judges sit on the Drug Offender Sentencing Grid Committee and the Drug Sentencing Task Force.

VIII. Entities Closely Affecting Courts

Throughout the criminal justice system, courts rely on and work with other agencies or programs. The following agencies are essential for court dispositions, although they are not funded or staffed by the court.

Department of Corrections (DOC): DOC takes jurisdiction over defendants after sentencing, and runs the state prison system. DOC staff also provide pre-sentence investigation reports for sex and mentally ill offenders to help judges determine sentencing.

Department of Social and Health Services (DSHS): This agency houses several programs that support defendants and victims in criminal cases.

- **Adult Protective Services** investigates allegations of abuse and neglect of seniors and adults with disabilities.
- **The Special Commitment Center** houses sex offenders who have completed their prison sentences, but are held for mental health treatment.
- **The Children's Administration** provides services to abused and neglected children, including foster care and adoption, and services to reunite families.
- **The Juvenile Rehabilitation Administration** runs several institutions that house the most serious juvenile offenders, and provides group homes and community supervision to reintegrate offenders who have completed their sentences into the community.
- **The Mental Health Division** allocates funding to Regional Support Networks that provide community-based mental health care, and also provides inpatient mental health treatment at two state mental hospitals.
- **The Legislative and Community Relations Office** administers the Victim Witness Notification Program. This confidential program helps to assist victims and witnesses of sexual assault or violent crimes track the location and other status changes of the person who victimized them.

The Federal Court System

I. Introduction

Washington is divided into two Federal Judicial Districts, one in Spokane for the Eastern District, and one in Seattle for the

Federal courts rarely handle juvenile cases.

Western District. One U.S. Attorney's Office and one Marshal's office are also located in each district.

A specific type of crime can fall exclusively under federal jurisdiction, as do terrorism, income tax evasion and crimes that cross state lines; under state jurisdiction exclusively, such as violent crimes; or under concurrent jurisdiction of the state and federal system, as is the case with most drug crimes. For procedural reasons, Washington's federal courts rarely handle juveniles in the trial process, or after conviction.

II. Legal Authority

Article III of the United States Constitution creates a system of federal courts to hear cases between litigants involving federal statutes or cases beyond the jurisdiction of the states.

III. Infrastructure

Federal courts have three tiers: district courts, circuit courts, and the Supreme Court. All judges on federal courts are nominated by the President and confirmed by the U.S. Senate. They serve for life, or until they retire.

A. District Courts

Two of the 94 U.S. district courts are located in Washington. The Eastern District Court staffs a main office in Spokane, and two divisional offices in Yakima and Richland; the Western District Court holds regular sessions in Tacoma and Seattle.

Bankruptcy Courts: Federal courts have exclusive jurisdiction over bankruptcy cases. The Eastern Washington Bankruptcy Court is located in Spokane and Yakima; the Western Washington Bankruptcy Court is located in Seattle and Tacoma. These courts are a specialty court of the federal district court.

B. Circuit Court

There are 13 circuits in the United States, each with a court of appeals. The largest is the Ninth Circuit, with 28 judgeships. Washington sits in the Ninth Circuit, along with ten other states and territories. The Ninth Circuit Washington courthouse is located in Seattle. People appear in circuit court when they are appealing a federal district court's decision.

C. Supreme Court

The U. S. Supreme Court, located in Washington D.C., consists of a chief justice and eight associate justices. The federal Supreme Court holds original jurisdiction over cases involving treaties and foreign diplomats, and cases when a

*Fourteen of the 29
federally recognized
tribes in Washington
State operate their
own courts.*

state is a party in a legal dispute. When there is a controversy between two or more states; between a state and citizens of another state; or between a state, or a state's citizens, and foreign states, citizens or subjects, the Supreme Court has appellate jurisdiction.

The Tribal Court System

I. Introduction

In 1934, the federal Indian Reorganization Act encouraged tribes to enact their own laws and establish their own justice systems.

Today, there are 29 federally recognized tribes in Washington. Fourteen operate their own courts, and 11 contract with Northwest Intertribal Court System, a consortium of tribes who share judges, prosecutors and related court services (Owens 2002 1).

II. Legal Authority

Tribes are inherent sovereign powers that pre-date the U. S. government; they do not draw their authority from U. S. federal law. However, the U. S. Constitution grants the federal government exclusive authority to address Indian affairs. Under the Major Crimes Act of 1885, the federal government has jurisdiction over serious felonies committed by Indians (18 U.S.C. § 1153).³¹ Tribes share concurrent jurisdiction with the federal government over other felonies when committed by Indians in Indian Country (that is, on tribal land). Tribal laws govern crimes by Indians against Indians on reservations, unless punishment is more than one year in prison. In that case, the federal government has the authority to prosecute. Native Americans from all tribes are subject to the jurisdiction of tribal courts for crimes committed on Indian lands.

State governments have exclusive jurisdiction over crimes by non-Indians on tribal lands, as well as crimes by Indians off reservation land. State governments may not regulate Indian Country without specific Congressional authorization.

III. Funding

Tribal court funding from the federal government has been sporadic and largely insufficient. The Department of Justice, Office of Justice Programs provided \$5 million in 1999 as part of the Indian Country Law Enforcement Initiative, but it was reduced to \$1 million in 2001. It increased in 2002, but again decreased in 2003.

³¹ These major crimes include murder, manslaughter, kidnapping, maiming, felony sexual assault, incest, assault with intent to commit murder, assault with a dangerous weapon, assault resulting in serious bodily injury, assault against an individual under sixteen, arson, burglary, robbery, and felony theft.

A member of the military who commits a crime on a military base is subject to the Uniform Code of Military Justice.

TABLE 6-5 DOJ Budget Authority for Native American Programs FY 1998 – 2004 (in thousands of dollars)							
	1998	1999	2000*	2001	2002	2003*	2004*
Tribal Courts	--	5,000	5,000	890	8,727	7,948	5,921
* Enacted amounts (actuals not available)							
** Indicates that no funding was appropriated							
**Estimate based on 2004 budget request							

Source: U.S. Commission on Civil Rights 2003 75

IV. Criminal Procedure

Procedures used in tribal courts vary greatly from those of state and federal courts. For example, the Indian Civil Rights Act guarantees a jury trial, but local tribal practices usually dictate whether the trial is by jury, judge, or a panel of tribal members and/or elders.

Tribal courts do not require licensed attorney representation. Larger tribes generally provide local attorney public defenders to criminal defendants, but this is not mandated. Tribal courts are very limited in their sentencing power; judges may sentence offenders to one year in jail and/or a \$5,000 fine for most serious offenses. Tribes have both written and unwritten codes of law. They often adopt U. S. federal or state law in the absence of applicable provisions of tribal law. Tribal common law, custom, and tradition, as well as federal provisions often influence the system, and most tribal codes specifically authorize consideration of all of these by decision-makers (Owens 2002 1).

Military Courts

I. Introduction

Eight military bases are located in Washington: Fairchild Air Force Base, McChord Air Force Base, Fort Lewis (Army), Camp Murray (National Guard), Naval Air Station at Whidbey Island, Naval Submarine Base at Bangor, Naval Station at Bremerton, and Naval Station at Everett.

Military personnel are subject to military laws and a military tribunal. State and federal laws cover military personnel who commit crimes away from a military base. However, a member of the military charged with a crime perpetrated on base is subject to the Uniform Code of Military Justice (UCMJ). The UCMJ was created in 1950 to ensure standardized procedures among the service branches. Defendants charged under the UCMJ undergo a court-martial, which can be appealed to the Court of Criminal Appeals and Court of Appeals for the Armed Services. Under certain circumstances, the military defendant may appeal to the U.S. Supreme Court.

Civilians who commit crimes on military bases are subject to state or federal jurisdiction, not that of the UCMJ.

II. Legal Authority

Article I of the U.S. Constitution gives Congress the power to make rules for the government and regulation of the armed forces.

III. Funding

Federal funds support military courts.

IV. Infrastructure

A. Court Martial

Within a military branch, the staff judge advocate (SJA) is the chief legal counsel for a military command. He or she heads up an office that is responsible for criminal and civil law issues, as well as providing legal assistance on civil law matters to military members and their families. In the criminal law context, the SJA is similar to a prosecutor, although with no inherent authority to dispose of charges or convene court-martial. In the military justice system, commanders retain that power. A court-martial panel consists of a military judge and not less than five members who act as jury. However, some cases may be tried by a single military judge if the accused so requests (UCMJ Sec 816, Art. 16). The more serious the crime the greater the number of panel members. Each case that results in a finding of guilt is reviewed by a judge advocate.

B. Court of Criminal Appeals

After review, the Judge Advocate must refer a case to the Court of Criminal Appeals if the approved sentence includes death, confinement for more than one year, or a punitive discharge. The Court of Appeals is granted broad power to review court-martial records of trial, determine questions of law and fact, weigh evidence, and reduce sentences. Each Court of Appeals is made up of at least three lawyers, typically senior judge advocates. Determinations of fact are final and cannot be appealed. Only questions of law may be appealed to the United States Court of Appeals for the Armed Forces.

C. Court of Appeals for the Armed Forces

The Court of Appeals for the Armed Forces hears only cases involving a death sentence, or cases reviewed by the Court of Criminal Appeals. This body is made up of five civilian judges, who convene in Washington, D.C.

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